

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 19-10447-RGS

UNITED STATES OF AMERICA

v.

JAMES DE LA CRUZ

ORDER ON
DEFENDANT'S MOTION
TO DISMISS HIS INDICMENT

December 28, 2021

STEARNS, D.J.

Petitioner James De La Cruz, proceeding *pro se*, previously pleaded guilty to one count of conspiracy to distribute one kilogram or more of heroin and 400 grams or more of fentanyl and a second count of possession with intent to distribute the same quantities of drugs. He now seeks to dismiss the underlying criminal indictment on the ground that 21 U.S.C. § 841 and 21 U.S.C. § 846 fail to state offenses prosecutable under the laws of the United States. To the extent that I understand his argument, De La Cruz appears to believe that Congress, in enacting penalties for the two crimes in question, neglected to outlaw the underlying substantive offenses. To the extent that distribution of heroin and fentanyl are crimes, according to De La Cruz, they are prosecutable only under an ancient common law over which

federal courts have no subject matter jurisdiction. As De La Cruz's argument, while resourceful, is utterly devoid of merit and lacks any foundation in life, logic, or experience, his motion to dismiss must be, and is, DENIED.

SO ORDERED.

/s/ Richard G. Stearns
UNITED STATES DISTRICT JUDGE